

CITY OF EL PASO, TEXAS
DEPARTMENT HEAD'S SUMMARY REQUEST FOR COUNCIL ACTION
(RCA)

DEPARTMENT: AIRPORT

AGENDA DATE: May 17, 2005

CONTACT PERSON/PHONE: Patrick T. Abeln, A.A.E. – 780-4724

DISTRICT(S) AFFECTED: 3

SUBJECT:

That the City Manager be authorized to sign a Lessor's Approval of Sublease by and between the City of El Paso ("Lessor"), Cutter Beechcraft Corporation ("Lessee") and Pak West, Inc. dba Sierra West Airlines ("Sublessee") covering the property described as Lot 28, Block 4, El Paso International Airport Tracts, Unit 2, and Lots 29 and 30, Block 4, El Paso International Airport Tracts, Unit 1, El Paso, El Paso County, Texas and municipally known as 7615 Boeing Drive, El Paso, Texas.

BACKGROUND / DISCUSSION:

Pak West Airlines dba Sierra West Airlines is an "on-demand" freight forwarder which has been conducting business at EPIA since 1991. Sierra West services several air cargo companies here ranging from Active Aero to UPS, FedEx, with the majority of its cargo being automotive components in nature. The local staff is comprised of 5 employees with their headquarters being in Oakland, California for the past 30 years. They now desire to sublease a larger location from Cutter and are requesting the City's approval of this sublease.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one? If so, when?

Yes. Standard Lessor's Approval of Subleases are common and go to Council on a regular basis.

AMOUNT AND SOURCE OF FUNDING:

There will be no economic impact on Airport funds.

BOARD / COMMISSION ACTION:

This Lessor's Approval of Sublease was presented to the Airport Board and approved on March 17, 2005.

COUNCIL ACTION REQUIRED: City Council did not delegate the authority to sign airport leases, concession agreements or operating agreements.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) Sylvia Borunda Firth **FINANCE:** (if required) _____
Sylvia Borunda Firth, Asst. City Attorney

OTHER: Patrick T. Abeln, A. A. E., Director of Aviation _____
(Example: if RCA is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Lessor's Approval of Sublease by and between the City of El Paso ("Lessor"), Cutter Beechcraft Corporation ("Lessee") and Pak West, Inc. dba Sierra West Airlines ("Sublessee") covering the property described as Lot 28, Block 4, El Paso International Airport Tracts, Unit 2, and Lots 29 and 30, Block 4, El Paso International Airport Tracts, Unit 1, El Paso, El Paso County, Texas and municipally known as 7615 Boeing Drive, El Paso, Texas.

ADOPTED this 17th day of May, 2005.

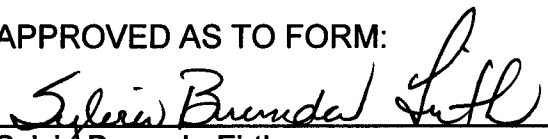
CITY OF EL PASO

Joe Wardy
Mayor

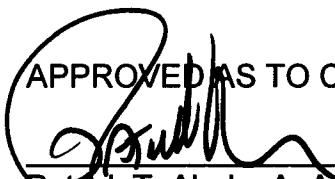
ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Sylvia Borunda Firth
Assistant City Attorney

APPROVED AS TO CONTENT:


Patrick T. Abeln, A. A. E.
Director of Aviation

STATE OF TEXAS

§

COUNTY OF EL PASO

§

§

LESSOR'S APPROVAL OF SUBLEASE

THIS Lessor's Approval of Sublease is made and entered into by and between the City of El Paso ("Lessor"), Cutter Beechcraft Corporation ("Lessee") and Pak West, Inc. dba Sierra West Airlines ("Sublessee").

WHEREAS, Lessor and Lessee entered into a Non-Commercial Aviation Ground Lease dated June 1, 1994 and expiring May 31, 2019 ("Lease") covering the property municipally known and numbered as 7615 Boeing Drive, El Paso, Texas and more fully described as follows:

Lot 28, Block 4, El Paso International Airport Tracts,
Unit 2, and Lots 29 and 30, Block 4, El Paso
International Airport Tracts, Unit 1, El Paso, El Paso
County, Texas ("Premises").

WHEREAS, the Lease provides that Lessee may only sublease all or a portion of the Premises with the prior written consent of Lessor;

WHEREAS, the Lessee desires to sublease the entire Premises to Sublessee;
and

WHEREAS, Lessor has consented to the sublease, subject to the terms and conditions set forth in this agreement, and accepted and agreed to by Lessee and Sublessee.

NOW, THEREFORE, in consideration for the mutual covenants of the parties, Lessor, Lessee and Sublessee agree as follows:

1. Sublessee has been provided with a copy of the Lease and the Declaration of Restrictions attached to the Lease and agrees to accept and abide by all the terms, covenants, and conditions of the Lease and the Declaration of Restrictions and Covenants attached to the Lease all of

which are fully incorporated into this Agreement by reference; including but not limited to the insurance requirements contained in the Lease.

2. This approval shall in no way release the Lessee or any person or entity claiming by, through or under Lessee, including Sublessee, from any of its covenants, agreements, liabilities and duties under the Lease, as same may be amended from time to time, without respect to any provision to the contrary in the Sublease.
3. This approval does not constitute approval by Lessor of any of the provisions of the Sublease document or agreement; nor shall the same be construed to amend the Lease in any respect. The sole purpose of the Sublease shall be to set forth the rights and obligations between Lessee and Sublessee.
4. This approval does not end the need for Lessor's approval of any future subleases or for any other matter for which Lessor's approval is required under the Lease.
5. Lessee shall remain liable to Lessor for any defaults under the Lease, whether such default is caused by Lessee or Sublessee or anyone claiming by or through either Lessee or Sublessee. The foregoing shall not be deemed to restrict or diminish any right which Lessor may have against Sublessee, in law or in equity, for violation of the Lease.
6. The Sublease is, in all aspects, subject and subordinated to the Lease as the same may be amended. The terms of the Lease shall prevail in the case of any conflict between the provisions of the Lease and Sublease or this approval.
7. If, at any time prior to the expiration of the term of the Sublease, the Lease shall terminate or be terminated for any reason (or Lessee's right to possession shall terminate without termination of the Lease), the Sublease shall simultaneously terminate.
8. Nothing herein shall be deemed a waiver of any of Lessor's rights under the Lease. In no event, however, shall Lessor be deemed to be in privity of contract with Sublessee or owe any obligations or duty to Sublessee under the Lease or otherwise, any duties of Lessor under the Lease being in favor of, for the benefit of and enforceable solely by Lessee.
9. The persons signing this approval on behalf of the Lessee and Sublessee represent and warrant that they have the authority to legally bind the Lessee and Sublessee to the provisions of this approval. By execution of this approval, Lessee and Sublessee acknowledge and agree to be bound by all the terms and conditions of this approval as set forth herein.

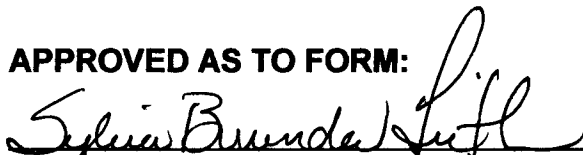
10. As additional consideration for Lessor's approval, Sublessee agrees that it shall furnish to the City, on or before the tenth (10th) day of each month, an accurate report of Sublessee's operations at the Airport during the preceding month. The report shall include, but not be limited to: a) the amount of cargo, freight or mail loaded or off loaded from any aircraft by Sublessee, its customers, contractors or agents and b) the type of aircraft and name of aircraft operator handled. Sublessee agrees to provide this information in such detail and on a form prescribed by the Director of Aviation.

IN WITNESS WHEREOF, this Lessor's Approval of Sublease has been executed and shall be effective as of the 17th day of May 2005.

LESSOR: CITY OF EL PASO:

By: _____
Joyce Wilson
City Manager

APPROVED AS TO FORM:


Sylvia Borunda Firth
Assistant City Attorney


APPROVED AS TO CONTENT:


Patrick T. Abeln, A.A.E.
Director of Aviation

ATTEST:

Printed Name: _____


LESSEE: Cutter Beechcraft, Inc.

By: 
Printed Name: Alberto Monard Jr
Title: V.P. B.O.

ATTEST:

Printed Name: _____

**SUBLESSEE: Pak West, Inc. dba
Sierra West Airlines**

By: 
Printed Name: OK Robinson
Title: CEO

(ACKNOWLEDGMENTS ON FOLLOWING PAGE)

ACKNOWLEDGMENT

THE STATE OF Texas CA)
EL PASO)
COUNTY OF STANTON)

This instrument was acknowledged before me on this 2nd day of May 2005,
by ALTONSO MORENO JR as GM/VP of Cutter Beechcraft
Corporation. (Lessee).

Lyndell Pool
Notary Public, State of Texas

My Commission Expires:
02/24/2007

ACKNOWLEDGMENT

THE STATE OF CA)
COUNTY OF Stanislaus)

This instrument was acknowledged before me on this 26 day of March 2005, by
_____ as _____ of Pak West, Inc. dba Sierra West
Airlines, Inc. (Sublessee).

Elizabeth Thompson
Notary Public, State of Texas California

My Commission Expires:
March 28, 2008

